

Underground Storage Tank Regulations
Title 23, Waters
Division 3, Water Resources Control Board
Chapter 16, Underground Storage Tank Regulations
1992

I. Rulemaking Index

Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations

1992

**Index to Rulemaking File
Underground Storage Tank Regulations
Title 23, Waters
Division 3, Water Resources Control Board
Chapter 16, Underground Storage Tank Regulations**

1992

- I. Rulemaking Index**
- II. Notice of Proposed Rulemaking Articles 1 - 8**
- III. Issue Paper: Modification to Underground Storage Tank Regulations**
- IV. Initial Statement of Reasons Articles 1 - 8**
- V. Fiscal Impact Statement (Form 399)**
- VI. Notice Publication/Regulations Submission (Form 400)**
- VII. Memoranda**
 - a. Draft Regulations Revising the Underground Storage Tank Program: To David Holtry from Department of Finance, Dated May 14, 1992**
 - b. Fiscal Impact Statement for Purposed Revisions to UST Regulations: To James M. Strock Cal EPA and Elliott Mandell Department of Finance from Walt Pettit Executive Director of SWRCB, dated February 19, 1992**
 - c. Proposed Revisions to the Underground Storage Tanks Regulations: To Walt Pettit Executive Director of SWRCB, dated January 28, 1992**
 - d. Fiscal Impact Statement for Proposed Title 23, Division 3, Chapter 16 California Code of Regulations: to James B. Stafford Division of Administrative Services, dated February 6, 1992**
- VIII. Proposed amendments**

II. Notice of Proposed Rulemaking Articles 1 - 8

Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations

1992

NOTICE OF PROPOSED RULEMAKING

PROPOSED AMENDMENTS TO REGULATIONS GOVERNING UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES, CODIFIED IN CHAPTER 16, DIVISION 3, TITLE 23 OF THE CALIFORNIA CODE OF REGULATIONS (23 CCR SECTIONS 2611, 2621, 2631, 2642, 2643, 2646, 2680 AND 2681)

The State Water Resources Control Board (State Water Board) proposes to amend the regulations cited above as shown in the attachment.

Presentation of Written Comments

Any interested person may present statements relevant to the State Water Board's proposed rulemaking. ONLY COMMENTS RELATING TO THE PROPOSED ACTION DESCRIBED IN THIS NOTICE WILL BE CONSIDERED.

Written comments must be received by the State Water Board no later than 5:00 p.m. on June 23, 1992, the close of the 45-day period. Comments should be addressed to David Holtry, Division of Clean Water Programs, State Water Resources Control Board, Post Office Box 944212, Sacramento, CA 94244-2120. David Holtry's telephone number is (916) 739-4436.

No public hearing has been scheduled on the proposed action. However, a hearing will be held if the State Water Board receives a written request for a public hearing from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period.

Adoption of Proposed Amendments

All comments will be considered and staff may modify the proposed regulations in order to accommodate concerns raised by commenters or State Water Board Members. At a State Water Board meeting following the public comment period, the State Water Board may adopt regulations substantially as proposed. The State Water Board must determine that no alternative considered by the State Water Board would be more effective in carrying out the purpose for which the regulations are being proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

The State Water Board may adopt modified regulations without additional notice in the California Regulatory Notice Register if the modifications are sufficiently related to the proposed regulations so that interested persons could have anticipated such modifications as being within the scope of this

notice. The text of such proposed regulations, as modified, will be made available to interested persons at least 15 days before the date of any State Water Board workshop at which the proposed regulations will be discussed. Written comments related to the modifications will be accepted through the date of the workshop. Requests for copies should be addressed to David Holtry at the address listed above.

A public hearing will be held if, no later than 15 days prior to the close of the written comment period, an interested person submits, in writing to the State Water Board, a request to hold a public hearing.

Pursuant to section 11347 of the Government Code, the State Water Board is maintaining a rulemaking file for this administrative proceeding. The file currently contains:

1. A copy of the existing regulations that will be amended as a result of the proposed rulemaking;
2. A copy of the proposed regulations;
3. A copy of the initial statement of reasons for the proposed regulations;
4. The factual information supporting the proposed regulations; and
5. A copy of the fiscal impact statement for the proposed regulations.

As additional documents, including comments, are received, they will be added to the rulemaking file. The file is available for inspection at the office of the State Water Board, Division of Clean Water Programs, during normal working hours.

Authority to Adopt Amendments to Regulations and Reference to Statutes

The State Water Board has authority to adopt the proposed amendments pursuant to H&SC section 25299.3.

The purposes of these regulations are to implement, interpret, and make specific Chapter 6.7 (Underground Storage of Hazardous Substances) of Division 20 of the Health and Safety Code (section 25280, et seq "Chapter 6.7").

Informative Digest

Chapter 6.7 of Division 20 of the Health and Safety Code (H&SC) established a program for regulation of underground storage tanks. Chapter 6.7 prohibits any person from owning or operating an underground storage tank used for the storage of hazardous substances without a permit issued to the owner by a designated local agency and provides for implementing of construction and monitoring standards. The State Water Board developed regulations to implement the standards for this permit program pursuant to H&SC section 25299.3. These regulations originally became effective in August of 1985, and were subsequently amended in August of 1991.

The proposed amendments to the underground storage tank regulations include changes made for clarification purposes and a few other changes to conform to state or federal statutes.

Article 1

Existing regulations list the terms defined in Chapter 6.7 of the Health and Safety Code. Proposed regulations delete three terms (Hazardous substance, Operator, and Person) from this list.

Existing regulations do not define "Hazardous substance". Proposed regulations add such definitions to clarify the one given in Chapter 6.7 of the Health and Safety Code.

Existing regulations do not define "manual inventory reconciliation". Proposed regulations add the definition for "manual inventory reconciliation".

Existing regulations define "new underground storage tank" to include, among other things, tanks installed after January 1, 1984, pursuant to a permit issued by the local agency. Proposed regulations would amend the definition to include all tanks installed after January 1, 1984 even though a permit may not have been issued.

Existing regulations do not define "Operator" or "Person". Proposed regulations add such definitions to clarify the ones given in Chapter 6.7 of the Health and Safety Code.

Existing regulations do not define "statistical inventory reconciliation". Proposed regulations add the definition for "statistical inventory reconciliation".

Existing regulations define "wastewater treatment tank" as an underground storage tank that is located inside a public or private wastewater treatment facility. Proposed regulations would further limit this definition to those tanks designed for wastewater treatment.

Article 2

Existing regulations list certain types of tanks that are exempt from the underground storage tank regulations. Proposed regulations would not exempt tanks which are regulated under federal statutes.

Existing regulations exempt from regulation pipelines located in a refinery or an oil field. Proposed regulations clarify that pipelines connected to regulated tanks are not exempt.

Existing regulations do not exempt tanks located in vaults or basements from regulation. Proposed regulations exempt tanks located in vaults and basements under certain circumstances set forth in section 25283.5 of the Health and Safety Code.

Existing regulations subject exempt farm and heating oil tanks to the regulations when they are taken out of service. The proposed amendment will maintain the exempt status of farm and heating oil tanks under 1,100 gallons when the use of these tanks is discontinued and only will subject these tanks to regulation if they are subsequently used as a non-exempt tank.

Article 3

Existing regulations require underground storage tanks to be monitored in accordance with the requirements set forth in the regulations. Proposed regulations require monitoring equipment to be installed, calibrated, operated, and maintained in accordance with manufacturer's instructions.

Existing regulations require a new underground storage tank to have secondary containment. Proposed regulations require a new underground storage tank, storing a non-petroleum hazardous substance, to have secondary containment that completely surrounds the primary containment.

Existing regulations require an underground storage tank to be designed and constructed to an industry code for the applicable use. Proposed regulations also require an underground storage tank to be product tight.

Existing regulations require certain secondary containment systems to be designed and constructed according to certain standards and a vault, a type of system subject to this subsection, is listed. Proposed regulations give additional types of secondary containment systems subject to the regulations.

Existing regulations require the secondary containment system to be large enough to contain 150 percent of the volume of the largest primary tank or 10 percent of the volume of all primary tanks within the secondary containment system. This requirement ensures that the system will not allow overflow in the situation where the primary containers extend above the highest level of the secondary containment system. Proposed regulations clarify the fact that the secondary containment system is open.

Existing regulations require that secondary containment systems utilizing membrane liners shall be certified by an independent testing organization. Proposed regulations give a date by which the certification must be done.

Existing regulations require all underground storage tanks to be equipped with a spill container with a spring loaded drain valve. Proposed regulations replace the spring loaded drain valve requirement with any method that will empty the spill container immediately after use.

Existing regulations require that the tank owner certify that the installer has been adequately trained and certified by the equipment manufacturer. Proposed regulations require that the tank owner certify that the installer has been adequately trained as evidenced by a certificate of training issued by the equipment manufacturer.

Article 4

Existing regulations use the term "alternative" in referring to a monitoring program. Proposed regulations replace the term "monitoring alternative" with the term "monitoring program".

Existing regulations require certain information to be reported as a result of a leak detection program using an automatic tank gauge. Proposed regulations clarify that the leak rate be included in the information reported. Also, the proposed regulation clarifies that the performance standards applicable to an automatic tank gauge are set forth in section 2643(c)(1).

Existing regulations limit inventory reconciliation to non-visual monitoring on underground storage tanks containing motor vehicle fuels. Proposed regulations clarify that inventory reconciliation means either manual inventory reconciliation with the performance standard set forth in section 2643(c)(2)(B) or statistical inventory reconciliation with the performance standard set forth in section 2643(c)(1).

Existing regulations do not specifically consider statistical inventory reconciliation. Proposed regulations allow statistical inventory reconciliation to be used if a tank integrity test is performed once every 24 months and when two statistical inventory reconciliation reports do not show the tank to be tight if located in a high ground water area.

Existing regulations specify certain limitations applicable to inventory reconciliation and other leak detection methods. Proposed regulations remove the above limitations and puts the limitation on all manual inventory reconciliation.

Existing regulations specify that inventory reconciliation that utilize manual stick readings cannot be used after 1998. Proposed regulations state that manual inventory reconciliation cannot be used after 1998.

Existing regulations specify the allowable monthly inventory reconciliation variation as 1.0 percent of the monthly tank delivery plus 130 gallons. Proposed regulations replaces the word delivery with flow through. This will allow either tank deliveries or tank withdrawals to be used in the inventory reconciliation calculations.

Existing regulations require the owner or operator to report to the State Water Board any unauthorized release. Proposed regulations require this report to be made to the local agency.

Article 5

Existing regulations require an owner to submit the free product removal report to the local agency. Proposed regulations require this submittal to the local agency or regional board, whichever is overseeing the cleanup.

Existing regulations refer to the local agency for approval of investigations or corrective action activities. Proposed regulations make reference to the local agency or regional board, whichever is overseeing the cleanup.

Existing regulations require an owner or operator to conduct any necessary initial abatement and site characterization actions. Proposed regulations require an owner or operator to also conduct any additional corrective action.

Existing regulations require free product removal as determined by the local agency. Proposed regulations require free product removal in accordance with the requirements of section 2722(b).

Article 6

Existing regulations allow lining of an UST if no release has occurred in accordance with Section 2662. Proposed regulations correct the Section reference from 2662 to 2661 which includes tank repairs using lining.

Existing regulations set forth upgrade requirements for pressurized piping. Proposed regulations remove the limitation of the upgrade requirements to pressurized piping.

Article 7

Existing regulations require installation of a downgradient monitoring well at sites where the tank is closed in place and ground water is less than 20 feet deep. Proposed regulations delete this requirement and require compliance with the applicable corrective action requirements.

Article 8

Existing regulations contain procedures for categorical variances from the requirements for the construction and monitoring of new and existing underground storage tanks. Proposed regulations delete these procedures in their entirety.

Fiscal Impact Statement

The State Water Board has prepared an Initial Fiscal Impact Statement (IFIS) to estimate the costs to underground storage tank owners because of the proposed amendments to the regulations. The State Water Board has determined that there is no adverse fiscal impact to tank owners.

Disclosures Regarding the Proposed Action

- . Mandate on local agencies and school districts: None.
- . Cost or savings to any state agency: Savings of \$226,667 annually.
- . Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.
- . Other non-discretionary cost or savings imposed upon local agencies: Savings of \$613,333 annually.
- . Cost or savings in federal funding to the state: None.
- . Cost impact on private persons or directly affected businesses: Insignificant.
- . Significant adverse economic effect on small businesses: None.
- . Significant effect on housing costs: None.

III. Issue Paper: Modification to Underground Storage Tank Regulations

Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations

Issue Paper: Modifications to Underground Tank Regulations

Chapter 6.7 of Division 20 of the Health and Safety Code (H&SC) established a program for regulation of underground storage tanks. Chapter 6.7 prohibits any person from owning or operating an underground storage tank used for the storage of hazardous substances without a permit issued to the owner by a designated local agency and provides for implementation of construction and monitoring standards. The State Board developed regulations to implement the standards for this permit program pursuant to H&SC section 25299.3. These regulations originally became effective in August of 1985, and were subsequently amended in August of 1991.

The proposed amendments to the underground storage tank regulations include changes made for clarification purposes and a few other changes to conform to state or federal statutes, such as: ||

Examples of clarification

Section 2611 - The term "operator" will be added to the regulations to clarify the definition in Section 25281(h) of the Health and Safety Code. The word "daily" appears before the word "responsibility" which, under certain circumstances, will create confusion over the issue of who qualifies as the operator of a tank. The definition of "operator" in the regulations is added to clearly state that an "operator" is any person having responsibility for the daily operation of an underground storage tank.

Section 2652 - Subsection (d) includes the reference to the regional board as the agency which may be overseeing cleanup. The proposed amendment adds the same language to subsections (e) and (g), thus clarifying the regional board role in overseeing cleanup.

Examples of changes to conform regulations to statutes:

Section 2621(a) ^{Ch 627} - The Health and Safety Code (H&SC), Section 25283.5 was amended by the statutes of 1991 (AB 1057) ^{sher} to broaden the exemption of tanks located in basements and vaults. The proposed amendment to the regulations is being made to conform the regulations to the statutes.

Section 2621(c) - The proposed amendment to this section is to maintain the exempt status of farm and home heating oil tanks under 1,100 gallons when these tanks are taken out of service. (See attached letters from Senator Keene and the Legislative Counsel).

Section 2681 ^{Ch 724} - H&SC, Section 25299.2 and 25299.4 ^{sher} was amended by the statutes of 1991 (AB 1731) to delete the provision allowing categorical variances from construction and monitoring requirements. The proposed amendments to the regulations is being made to conform the regulations to the statutes.

There will not be any adverse fiscal impact as a result of the changes, but some savings can be expected.

The proposed changes that could result in savings are as follows:

1. Section 2621(a)(15) - Exempting vaulted/basement tanks from regulation.
2. Section 2621(c) - Maintaining the exempt status of farm and home heating oil tanks when closed.
3. Section 2681 - Elimination of the categorical variance procedure. There have been no categorical variance requests submitted in the last six years and there will be none in the future because of the elimination of the categorical variance procedure by statute. Therefore, there is no fiscal impact.

Fiscal Effect on Local Government

There are about 5,400 tanks (4% of the regulated tank universe) located in vaults and basements. It is estimated that 4,600 tanks are owned by local agencies and of those 184 (4% x 4,600) are located in vaults or basements. Absent the proposed amendments, these tanks would have to be replaced by a new double-walled tank, replaced by above-ground tank or upgraded in accordance with the requirements in section 2662, by 1998. The most probable choice is to install the tank above-ground. The potential cost of installing the new above-ground tanks is estimated at (184 x \$20,000) \$3,680,000, or \$613,333 annually for the next six years. The proposed amendments would save local government this expense.

Concerning Item 2 above, the assumption is that the local agencies do not own any home heating oil or farm tanks.

Fiscal Effect on State Government

There are about 1,700 tanks owned by state agencies and of those 68 (4% x 1,700) are located in vaults.

The cost, if they were to be replaced with above-ground tanks, is (68 x \$20,000) \$1,360,000, or \$226,667 annually for the next six years. The proposed amendments would save state government this expense.

Concerning Item 2 above the assumption is that the state does not own farm and home heating oil tanks.

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

2014 STREET, SUITE 130

P.O. BOX 944212

SACRAMENTO, CA 94244-2120

(916) 739-4332



SEP 30 1991

The Honorable Barry Keene
Member of the Senate
State Capitol, Room 313
Sacramento, CA 95814

The Honorable Dan Hauser
Member of the Assembly
State Capitol, Room 2003
Sacramento, CA 95814

Dear Senator Keene and Mr. Hauser:

CLOSURE OF HOME HEATING FUEL TANKS

We recently responded to your letter of September 4, 1991 concerning closure requirements of the Underground Storage Tank (UST) law by indicating we would review the issue and the Legislative Counsel's analysis. After a careful review, we have concluded that home heating fuel tanks, which are exempt by virtue of use, retain their exemption upon closure. Only when a farm or home heating fuel tank changes from an exempt use to a regulated use does it become subject to the UST law, therefore we will revise our regulations and guidance to reflect this interpretation of State law.

Thank you for bringing your concerns to our attention. If you have any further questions about this matter, please telephone Harry M. Schueller, Chief, Division of Clean Water Programs at (916) 739-4332.

Sincerely,

ORIGINAL SIGNED PV

Walt Pettit
Executive Director

Reason for
starting
alternating

California Legislature

STATE CAPITOL
SACRAMENTO, CALIFORNIA

RECEIVED



SEP 10 1991
OLCA Cont. 317
EXECUTIVE OFFICE DW 9/17
Cy WGP
BL
De
CWP
DCC

September 4, 1991

Mr. Walt Pettit
Executive Director
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2120

Dear Mr. Pettit:

We're concerned about the State Water Resources Control Board's interpretation of Chapter 6.7 of the Health and Safety Code concerning abandoned home heating oil tanks. It has come to our attention that the Board has advised local agencies to apply the abandonment requirements of Chapter 6.7 to home heating tanks under certain circumstances.

Although the law is silent as it specifically relates to home heating tanks which cease to be operational or are otherwise not in use, the general exemption in the law is the operative provision. A Legislative Counsel opinion specific to that question confirms this interpretation.

The exemption to all home heating oil tanks under Chapter 6.7, however, will not interfere with the Board's authority under the California Water Code to require clean-up or other contamination prevention measures if an abandoned home heating oil tank threatens water quality.

In light of the Legislative Counsel opinion, and legislative intent to exclude all application of the Underground Storage Tank law to home heating tanks, we urge you to revise your guidelines.

Sincerely,

SENATOR BARRA KEENE

ASSEMBLYMAN DAN HAUSER

Enclosure

Jack I. Horton
Ann Mackey
Chief Deputies
James L. Ashford
Jerry L. Bassett
John T. Shudebaker
Jimmae Wing
David D. Alves
John A. Corzine
C. David Dickerson
Robert Cullen Duffy
Robert D. Gronka
Robert G. Miller
Verne L. Oliver
Tracy O. Powell II
Marguerite Roth
Michael H. Upson
Daniel A. Weitzman
Christopher Zinke
Principal Deputies

State Capitol, Suite 3021
Sacramento, CA 95814-4996
(916) 445-3057
Telecopier: (916) 324-6311

Legislative Counsel of California

BION M. GREGORY

Sacramento, California
August 26, 1991

Gerald Ross Adams
Maren L. Anderson
Paul Anzile
Charles C. Asbri
Joe J. Ayala
Reneene P. Beale
Lara K. Bowman
Dane F. Boyer-Vine
Ann M. Burastero
Eileen J. Buxton
Guynnae L. Byrd
Emilia Cutrer
Ben E. Dale
Jelley A. DeLand
Clinton J. deWitt
Frances S. Dorbin
Maureen S. Dunn
Sharon R. Fisher
John Fosselle
Harvey J. Foster
Clay Fuller
Patricia R. Gates
Alvin D. Gress
Jana T. Harrington
Salvador S. Her
Cecilia Jordan
David B. Judson

Michael Kelly
Michael J. Kersten
L. Douglas Kinney
S. Lynne Klen
Victor Koznetski
Eve B. Krolinger
Dana G. Lim
Jennifer Loomis
Romulo I. Lopez
Kirk S. Louie
James A. Marsala
Francisco A. Martin
Peter Meincke
John A. Moger
Sharon Riedy
Michael B. Salerno
Keith Schulz
William K. Stark
Elen Swans
Mark Franklin Terry
Jed Thom
Elizabeth M. Warf
Richard B. Weisberg
Thomas D. Whelan
Belinda Whelan
Debra J. Zidich
Jack G. Zorman

Deputies

Honorable Barry Keene
313 State Capitol

Underground Storage Tanks: Exemptions - #24140

Dear Senator Keene:

QUESTION

When the owner of a home heating oil tank, as defined in paragraph (2) of subdivision (x) of Section 25281 of the Health and Safety Code, abandons the tank, is the owner required to comply with Chapter 6.7 (commencing with Section 25280) of Division 20 of the Health and Safety Code?

OPINION

When the owner of a home heating oil tank, as defined in paragraph (2) of subdivision (x) of Section 25281 of the Health and Safety Code, abandons the tank, the owner is not required to comply with Chapter 6.7 (commencing with Section 25280) of Division 20 of the Health and Safety Code.

ANALYSIS

Chapter 6.7 (commencing with Section 25280) of Division 20 of the Health and Safety Code¹ (hereafter Chapter 6.7) establishes a state program for the regulation of underground storage tanks. An underground tank system is defined, for purposes of Chapter 6.7, to mean an underground storage tank, connected piping, ancillary equipment, and containment system, if

¹ All section references are to the Health and Safety Code, unless otherwise specified.

any (subd. (y), Sec. 25281). Subdivision (x) of Section 25281 defines "underground storage tank" as follows:

"25281.

* * *

"(x) 'Underground storage tank' means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. 'Underground storage tank' does not include any of the following:

"(1) A tank with a capacity of 1,100 gallons or less which is located on a farm and which stores motor vehicle fuel used primarily for agricultural purposes and not for resale.

"(2) A tank which is located on a farm or at the residence of a person, which has a capacity of 1,100 gallons or less, and which stores home heating oil for consumptive use on the premises where stored.

"(3) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25291 or 25292 and sumps or other structures defined as underground storage tanks under the federal act are not exempted by this section. Structures identified in this paragraph may be regulated by the board [State Water Resources Control Board (subd. (b), Sec. 25281)] and any regional board [California regional water quality control board (subd. (b), Sec. 25281)] pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

* * * (Emphasis added.)

Thus, an underground storage tank, as defined in Section 25281, does not include a tank located on a farm or at the residence of a person, which has a capacity of 1,100 gallons or less, and which stores home heating oil for consumptive use on the premises where stored.

Under subdivision (c) of Section 25298, when a person abandons or closes an underground tank system, the person is required to demonstrate to the local agency that all residual amounts of the hazardous substance or hazardous substances which were stored in the tank system prior to its closure have been removed, properly disposed of, and neutralized; to adequately seal the tank system to minimize any threat to the public safety and the possibility of water intrusion into, or runoff from, the tank system; to provide for, and carry out, the maintenance of the tank system as the local agency determines is necessary for the period of time the local agency requires; and to demonstrate to the appropriate agency, which has jurisdiction over the site, that the site has been investigated to determine if there are any present, or were past, releases and, if so, that appropriate corrective or remedial actions have been taken. Each county is required to designate a department, office, or other agency of that county as the local agency responsible for implementing Chapter 6.7 and a city may also designate a local agency, pursuant to specified conditions (subd. (b), Sec. 25283).

You have asked whether the owner of a home heating oil tank, which is exempted from Chapter 6.7 by paragraph (2) of subdivision (x) of Section 25281, who abandons the tank, is then required to comply with Chapter 6.7.

For purposes of the Health and Safety Code, the present tense includes the past and future tenses (Sec. 11). Thus, a tank which stored home heating oil for consumptive use on the premises where stored, which is located on a farm or at the residence of a person, and which has a capacity of 1,100 gallons or less, is exempted from the definition of underground storage tank.

To hold otherwise would result in construing the definition in subdivision (x) of Section 25281 of "underground storage tank" as applying only to tanks in actual use for the storage of hazardous substances and not to tanks no longer used for that purpose. That would result in tanks no longer used for the storage of hazardous substances not being subject to Chapter 6.7, including the closure requirements of subdivision (c) of Section 25298, thereby giving no effect to that subdivision.

It is a basic rule of statutory construction that statutes are to be given a reasonable and commonsense construction in accordance with the apparent purpose and intentions of the lawmakers (Bush v. Bright, 264 Cal. App. 2d 788, 792), one that is practical rather than technical, and that will lead to a wise policy rather than to mischief or absurdity (City of Costa Mesa v. McKenzie, 30 Cal. App. 3d 763, 769-770). Also, statutes are to be given a fair and reasonable interpretation, with due regard for

the language used and for the apparent purpose sought to be accomplished (Cedars of Lebanon Hosp. v. County of L.A., 35 Cal. 2d 729, 735). Every word, phrase, and provision in a statute is required to be interpreted to have some meaning (Prager v. Isreal, 15 Cal. 2d 89, 93), and the various parts of a statutory enactment are to be harmonized by considering the particular clause in the context of the statutory framework as a whole (Moyer v. Workmens' Comp. Appeals Bd., 10 Cal. 3d 222, 230-231). It is an established rule of statutory construction that every statute be construed with reference to the whole system of law of which it is a part so that all may be harmonized and have effect (Rees v. Layton, 6 Cal. App. 3d 815, 821).

Therefore, we think that a better interpretation of subdivision (x) of Section 25281 is to include within the definition of underground storage tanks all tanks used, or which were used, to store hazardous substances, and to exclude from this definition all tanks used, or which were used, to store home heating oil for consumptive use on the premises where stored, which have a capacity of 1,100 gallons or less, and which are located on a farm or at the residence of a person. Because Section 25298 applies only to tanks which are subject to Chapter 6.7, it should not apply to tanks which were exempt from Chapter 6.7 pursuant to paragraph (2) of subdivision (x) of Section 25281 and which are no longer used for that exempt purpose. In other words, an exempt tank does not become subject to Chapter 6.7 when it is no longer used for the purpose for which it is exempted, unless the tank is being used for a nonexempt purpose.

Accordingly, it is our opinion that, when an owner of a home heating oil tank, as defined in paragraph (2) of subdivision (x) of Section 25281, abandons the tank, the owner is not required to comply with Chapter 6.7.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By *Eve Krotzger*
Eve B. Krotzinger
Deputy Legislative Counsel

EBK:kg

IV. Initial Statement of Reasons Articles 1 - 8

**Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations**

1992

INITIAL STATEMENT OF REASONS

State Program to Regulate Underground Storage Tanks (UST)

Statutory Background

Chapter 6.7 of Division 20 of the Health and Safety Code (H&SC) established a program for regulation of USTs. Chapter 6.7 prohibits any person from owning or operating an UST used for the storage of hazardous substances without a permit issued to the owner by a designated local agency and provides for implementation of UST construction and monitoring standards. The State Board developed regulations to implement the standards for this permit program pursuant to H&SC section 25299.3.

These regulations originally became effective in August of 1985 and were subsequently amended on August 9, 1991.

Proposed Changes to Regulations

The proposed amendments to the underground storage tank regulations include changes made for clarification purposes and a few changes which are substantive in nature. The changes do not mandate prescriptive standards referenced in section 11346.14 of the Government Code. The specific purpose of each proposed change is explained. The fundamental basis for each article or section has not changed from that in the previous rulemaking and has not been repeated here. The factual basis explains the reasons for the Board's determination that the amendment is necessary.

Article 1

Section 2610 - Definitions/Applicability of Definitions

Specific Purpose

The purpose of the amendment is to delete the terms "hazardous substance", "operator, and "person" from the list of terms defined in section 25281 of Chapter 6.7 of the Health and Safety Code.

Factual Basis

These terms are being added to the list of definitions in section 2611 of the state regulations.

Section 2611 - Additional Definitions

Specific Purpose

The purpose of the amendment is to add the definition of "hazardous substance".

Factual Basis

This definition is added to clarify the ambiguity in the definition found in section 25281(f) of the Health and Safety Code. It is the State Board's interpretation that section 25281(f) is intended to mean that a material is a hazardous substance if it meets the criteria of either subsection (1) or (2) of section 25281(f).

Specific Purpose

The purpose of the amendment is to add the definition of "manual inventory reconciliation".

Factual Basis

The proposed regulations use both manual and statistical inventory reconciliation. Therefore, terms need to be defined to delineate the distinctions between them.

Specific Purpose

The purpose of the amendment to the definition of "new underground storage tank" is to clarify that the definition of new underground storage tank is not limited to those that have previously received an operating permit.

Factual Basis

Section 25291 of the Health and Safety Code states that every underground storage tank installed after January 1, 1984 shall meet certain requirements and section 25292 sets forth the requirements of underground storage tanks installed before January 1, 1984. Therefore, the term "new underground storage tank" refers to those tanks installed after January 1, 1984 whether or not the underground storage tank has been issued a permit. In drafting the existing regulations, there was no intent to make the permit an issue in the definition.

Specific Purpose

The purpose of the amendment is to add the definition of "operator".

Factual Basis

In the section 25281(h) definition of "operator", the word "daily" appears before the word "responsibility" which, under certain circumstances, will create confusion over the issue of who qualifies as the operator of a tank. The definition of "operator" in the regulations is added to clearly state that an "operator" is any person having responsibility for the daily operation of an underground storage tank.

Specific Purpose

The purpose of the amendment is to add the definition of "person".

Factual Basis

The definition of "person" contained in section 25281(j) does not include the following entities that are included under section 9001(6). Those entities are of the Resource, Recovery and Conservation Act (RCRA) consortium, joint venture, and commercial entity. In addition, it is uncertain whether the state definition includes the following entities that are included under section 1004(15) of RCRA: any interstate body, all municipalities, commissions, and political subdivisions of California, other states and the political subdivisions of these states. It is clear from the language in the definition and other provisions of Chapter 6.7 that the definition of "person" in section 25281(j) was legislatively intended to mirror the definition of "person" in RCRA. This conclusion is virtually mandated by the provisions of sections 25299.5(a) and 25299.7(c). Since interstate agencies are in effect merely a combination of agencies of the states involved, a construction of the last sentence of section 25281(j) to mean that the word "person" also includes any city, county, district, state, or any agency or department thereof should be sufficient to assure consistency of the state program and federal requirements.

Specific Purpose

The purpose of the amendment is to add the definition of "statistical inventory reconciliation".

Factual Basis

The proposed regulations also use manual inventory reconciliation and thus the need to delineate between the two.

Specific Purpose

The purpose of the amendment to the definition of "wastewater treatment tank" is to clarify that the tanks defined are those that are not only located within a public or private facility, but are also used to treat an influent wastewater.

Factual Basis

Not all underground storage tanks located within a wastewater treatment facility should be exempt from the regulations. Therefore, a wastewater treatment tank needs to be defined in terms of its use as opposed to its location.

Article 2

Section 2621 - Exemptions

Specific Purpose

The purpose of the amendment to subsection (a) is to clarify that an underground storage tank is not exempt if it is regulated by the federal act.

Factual Basis

The universe of underground storage tanks covered under the state underground storage tank statutes and those covered under the federal statutes varies. The proposed amendment prevents state regulations from inadvertently exempting tanks that would be regulated by the federal underground storage tank program. The state requirements must be just as stringent as federal requirements in order for the state to obtain federal program approval.

Specific Purpose

The purpose of the amendment to subsection (a)(9) is to clarify that pipelines located in a refinery and connected to regulated tanks are not exempt.

Factual Basis

Pipelines located in a refinery or in an oil field are exempt under the current regulations. The intent was to exempt large pipelines used in the operation of the refinery or oil field. Pipelines connected to a regulated tank should be regulated along with the tank.

Specific Purpose

The purpose of the inclusion of subsection (a)(15) is to exempt from regulation tanks located in vaults or basements that can receive visual inspection.

Factual Basis

Section 25283.5 of the Health and Safety Code was amended to exempt from regulation tanks located in vaults or basements if certain conditions exist. The proposed amendment to the regulations reflects this change in the statutes.

Specific Purpose

The purpose of the amendment to subsection (c) is to maintain the exempt status of farm and heating oil tanks under 1,100 gallons when these tanks are taken out of service and to clarify that they will be subject to regulation whenever they are used as a non-exempt tank.

Factual Basis

Subsection (c) currently subjects exempt farm and heating oil tanks to the regulations when they are taken out of service. Therefore, such tanks are currently subject to closure requirements set forth in sections 2670 through 2672. The State Board has determined that this approach does not comply with the statutory intent expressed in Health and Safety Code section 25281(x) to exempt farm and heating oil tanks from regulation.

Article 3

Section 2630 - General Applicability of Article

Specific Purpose

The purpose of the amendment to subsection (b) is to specify that monitoring equipment be installed, calibrated, operated, and maintained in accordance with manufacturer's instructions.

Factual Basis

This requirement is set forth in section 2641(i) of Article 4 for existing monitoring equipment. The intent was that the requirement apply to all monitoring equipment and, therefore, the requirement is being added to Article 3 to apply to new tanks.

Section 2631 - Construction Standards for New Underground Storage Tanks

Specific Purpose

The purpose of the amendment to subsection (a) is to specify that, for non-petroleum hazardous substances, the secondary containment system shall completely surround the primary containment.

Factual Basis

This change will not permit open-top type secondary containment systems to store non-petroleum hazardous substances. This amendment will make state regulations consistent with federal regulations.

Specific Purpose

The purpose of the amendment to subsection (b) is to make clear that underground storage tanks shall be constructed to be product-tight.

Factual Basis

Section 25291(a) of the Health and Safety Code specifies that the primary container must be product-tight. This proposed amendment will make the regulations consistent with the statutes.

Specific Purpose

The purpose of the amendment to subsection (d) is to clarify the types of secondary containment systems subject to this subsection.

Factual Basis

The definition of underground storage tank includes associated piping. Secondary containment is required for both the tank and piping. The regulation gives an example of the type of tank but not what would be covered for piping.

Specific Purpose

The purpose of the amendment to subsection (d)(1)(B) is to clarify the intent of this section.

Factual Basis

The secondary containment system in this case is one that could have a low perimeter wall with multiple tanks rising above the wall. Capacity requirements are set to accommodate certain failures. These conditions are not needed with non-open-top secondary containment systems.

Specific Purpose

The purpose of the amendment to subsection (d)(6) is to clarify the date by which the membrane liner systems must be certified by an independent testing organization.

Factual Basis

Without a date, the regulation lacks clarity as to when the tank owner must comply.

Section 2635 - Installation and Testing Requirements for New Underground Storage Tanks and Piping

Specific Purpose

The purpose of the amendment to subsection (c)(1)(C) is to clarify that any method can be used to empty a spill container.

Factual Basis

A spring-loaded drain valve is one method to empty a spill container, but there may be other acceptable methods.

Specific Purpose

The purpose of subsection (c)(1)(D) is to make certain that the spill container is designed to prevent unintentional venting of the underground storage tank.

Factual Basis

Some spill containers are designed to allow draining into the underground storage tank. These methods must be designed to prevent the opening between the spill container and the tank from being left open. Otherwise, the underground storage tank could vent into the atmosphere.

Specific Purpose

The purpose of the amendment to subsection (e)(1) is to clarify that the certification applies to the training received and not the installer.

Factual Basis

The equipment manufacturer is required to provide adequate training to installers and issue a certificate for such training. The equipment manufacturer is not required to certify the installer since the manufacturer has no control or responsibility over the installer.

Article 4

Section 2642 - Visual Monitoring

Specific Purpose

The purpose of the amendment to subsection (d) is to replace the word "alternative" with "program" for clarity and consistency.

Factual Basis

The original regulations adopted in 1985 included eight monitoring alternatives. These regulations were subsequently amended, eliminating the monitoring alternatives with monitoring performance standards. The term monitoring alternatives was eliminated to prevent confusion. The use of the term alternative in subsection (d) was overlooked in prior amendments to the regulations and it is now being deleted.

Section 2643 - Non-Visual Monitoring/Quantitative Release Detection Methods

Specific Purpose

The purpose of the amendment to subsection (i) is to clarify the point that the performance standards in section 2643(c)(1) apply to automatic tank gauges and that the leak rate must be reported along with the other listed information.

Factual Basis

The proposed amendments do not impose new requirements, but assist the reader in finding the standards that apply to automatic tank gauges. Concerning the leak rate, automatic tank gauges, when put into a leak detection mode, report leak rates. This amendment makes the list of items to be reported complete.

Section 2645 - Manual Tank Gauging and Testing for Small Tanks

Specific Purpose

The purpose of the amendment to the section heading is to make it more descriptive of the section content.

Factual Basis

The requirements in this section are limited to tanks under 2,000 gallons as set forth in the text. The section heading is amended to reflect this limitation.

Section 2646 - Inventory Reconciliation

Specific Purpose

The purpose of the proposed amendment to subsection (a) is to clarify that the performance standards in section 2643(c)(1) apply to statistical inventory reconciliation. Furthermore, statistical inventory reconciliation needs to be verified to ensure it is being conducted within the performance standards.

Factual Basis

The proposed amendment references statistical inventory reconciliation and assists the reader in finding the requirements applicable to it. Also, if statistical inventory reconciliation is not performed correctly, small leaks will not be found, therefore, the monitoring program needs to be checked. This is comparable to checking leak detection equipment for operability as required in section 2641(i).

Specific Purpose

The purpose of the proposed amendment to subsection (b) is to remove the reference to other leak detection methods using manual stick readings and adds the term manual inventory reconciliation. The statement "manual inventory reconciliation shall not be used after December 22, 1998" was transferred from subsection (c) to subsection (b).

Factual Basis

This regulation pertains to manual inventory reconciliation only, and was not intended to impose limitations on other leak detection methods.

Specific Purpose

The purpose of the proposed amendment to subsection (c) is to delete the reference to manual stick reading and to require tank testing in connection with statistical inventory reconciliation under certain conditions.

Factual Basis

Stick readings are not the only method to do manual inventory reconciliation. Mechanical devices can also be used to obtain liquid level measurements. Because of the high risk situation with high ground water, tank testing is required if the statistical inventory reconciliation indicates a leak could be present.

Specific Purpose

The purpose of the proposed amendment to subsection (i) is to replace the term "delivery" with "flow through".

Factual Basis

Existing language limits the inventory reconciliation calculation to delivery information whereas the proposed change will allow either delivery or withdrawal information. The proposed amendment is consistent with the federal regulations and allows meter sales information, the most common method, to be used in performing Inventory Reconciliation calculations.

Article 5

Section 2650 - Reporting and Recording Applicability

Specific Purpose

The purpose of the amendment to subsection (e) is to replace a reference to the Board with a reference to the local agency.

Factual Basis

Section 25295(a) of the Health and Safety Code requires that an unauthorized release be reported to the local agency.

Section 2652 - Reporting, Investigation and Initial Response Requirements for Unauthorized Releases

Specific Purpose

The purpose of the amendment to subsections (e) and (g) is to clarify that a regional board might be responsible for overseeing the cleanup activities.

Factual Basis

Subsection (d) includes the reference to the regional board as the agency which may be overseeing cleanup. This amendment adds this same language to subsections (e) and (g), thus clarifying the regional board role in overseeing cleanup.

Specific Purpose

The purpose of the amendment to subsection (f) is to add a reference to the corrective action requirements of Article 11.

Factual Basis

Chapter 6.75 was added to the Health and Safety Code in 1989. Section 25299.37 established the requirement for an owner, operator or other responsible party to take corrective action in response to an unauthorized release.

Section 2655 - Free Product Removal

Specific Purpose

The purpose of the amendment to subsection (a) is to replace a reference to local agency determination with a reference to Article 11.

Factual Basis

The proposed amendment ensures consistency with section 2722(b) of Article 11, which requires the responsible party to notify the implementing agency before beginning free product removal.

Article 6

Section 2660 - Applicability

Specific Purpose

The purpose of the amendment to subsection (g) is to correct the reference to section 2662 to 2661.

Factual Basis

Subsection (g) sets forth requirements relative to tank lining. The specific requirements for tank lining are found in Section 2661 and not 2662 which covers upgrade requirements.

Section 2664 - Underground Piping Upgrade Requirements

Specific Purpose

The purpose of the amendment to subsections (a) and (b) is to delete the word "pressurized" from the text.

Factual Basis

Section 280.21(c) of the federal regulations does not limit the upgrade requirements just to pressurized piping.

Article 7

Section 2672 - Permanent Closure Requirements

Specific Purpose

The purpose of the amendment to subsection (d) is to delete the requirement for a ground water monitoring well in shallow ground water areas.

Factual Basis

Existing language requires soil sampling, whereas the previous regulations required soil sampling where feasible. This requirement for soil sampling should verify the presence or absence of contamination and the need for ground water monitoring. Also, existing language infers that an unauthorized release may have occurred at the site. The proposed amendment clarifies that the requirements of this subsection only apply to underground storage tank closure where unauthorized releases have not occurred and are not suspected.

Specific Purpose

The purpose of the amendment to subsection (e) is to clarify that only a reportable unauthorized release requires follow-up under Articles 5 and to add reference to the corrective action requirements of Article 11.

Factual Basis

The reference to a reportable unauthorized release makes this section consistent with Article 5. The reference to the corrective action requirements of Article 11 implements chapter 6.75, section 25299.37, which requires an owner, operator or other responsible party to take corrective action in response to an unauthorized release.

Article 8

Section 2680 - General Applicability of Article

Specific Purpose

The purpose of the amendment to subsection (a) is to delete the references to categorical variances.

Factual Basis

Assembly Bill 1731 of the statutes of 1991 amends sections 25299.2 and 25299.4 of the Health and Safety Code to delete the provision allowing categorical variances from construction and monitoring requirements.

Section 2681 - Categorical Variances

Specific Purpose

The purpose of the amendment to subsection (b) is to delete this subsection in its entirety.

Factual Basis

Assembly Bill 1731 of the statutes of 1991 amends sections 25299.2 and 25299.4 of the Health and Safety Code to delete the provision allowing categorical variances from construction and monitoring requirements.

V. Fiscal Impact Statement (Form 399)

Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations

FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

STD 399 (5/86)

STATE OF CALIFORNIA

SEE SAM SECTION 6055 FOR INSTRUCTIONS

DEPARTMENT

CONTACT PERSON

PHONE NUMBER

STATE WATER RESOURCES CONTROL BOARD

DAVID HOLTRY

(916) 739-4436

TITLE/DESCRIPTION OF REGULATION/ORDER

Underground Storage of Hazardous Substance Regulations, CCR Title 23, Division 3, Chapter 16

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and complete if necessary)

- ☐ 1 Additional expenditures of approximately \$ _____ annually which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:
- ☐ a is provided in (Item _____, Budget Act of _____) or (Chapter _____, Statutes of _____)
- ☐ b will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____.
- ☐ 2 Additional expenditures of approximately \$ _____ annually which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:
- ☐ a. implements the Federal mandate contained in _____.
- ☐ b. implements the court mandate set forth by the _____ court in the case of _____ vs. _____.
- ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;
- ☐ d. is issued only in response to a specific request from the _____, which is/are the only local entity(ies) affected;
- ☐ e. is more appropriately financed from the _____ (FEES, REVENUE, ETC.) of the _____ authorized by Section _____ Code;
- ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.
- ☒ 3 Savings of approximately \$ 613,333 annually.
- ☐ 4 No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current law and regulations.
- ☐ 5 No fiscal impact exists because this regulation does not affect any local entity or program.
- ☐ 6. Other _____

92 APR 28 PM 1:02

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and complete if necessary)

- ☐ 1 Additional expenditures of approximately \$ _____ annually. It is anticipated that State agencies will:
- ☐ a be able to absorb these additional costs within their existing budgets and resources.
- ☐ b request supplemental funding by means of "Budget Change Proposals" for the _____ fiscal year.
- ☒ 2 Savings of approximately \$ 226,667 annually.
- ☐ 3 No fiscal impact exists because this regulation does not affect any State agency or program.
- ☐ 4 Other _____

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes 1 through 4 and complete if necessary)

- ☐ 1 Additional expenditures of approximately \$ _____ annually.
- ☐ 2 Savings of approximately \$ _____ annually.
- ☒ 3 No fiscal impact exists because this regulation does not affect any federally funded State program or agency.
- ☐ 4 Other _____

SIGNATURE

TITLE

Walt Peltor 2-14-92 Executive Director

AGENCY SECRETARY
APPROVAL/CONCURRENCE

PROGRAM BUDGET MANAGER - DOF

DEPARTMENT OF FINANCE
APPROVAL/CONCURRENCE

DATE

DATE

4/13/92

FISCAL IMPACT

Chapter 6.7 of Division 20 of the Health and Safety Code (H&SC) established a program for regulation of underground storage tanks. Chapter 6.7 prohibits any person from owning or operating an underground storage tank used for the storage of hazardous substances without a permit issued to the owner by a designated local agency and provides for implementation of construction and monitoring standards. The State Board developed regulations to implement the standards for this permit program pursuant to H&SC section 25299.3. These regulations originally became effective in August of 1985, and were subsequently amended in August of 1991.

The proposed amendments to the underground storage tank regulations include changes made for clarification purposes and a few other changes to conform to state or federal statutes. There will not be any adverse fiscal impact as a result of the changes, but some savings can be expected.

The proposed changes that could result in savings are as follows:

1. Section 2621(a)(15) - Exempting vaulted/basement tanks from regulation.
2. Section 2621(c) - Maintaining the exempt status of farm and home heating oil tanks when closed.
3. Section 2681 - Elimination of the categorical variance procedure. There have been no categorical variance requests submitted in the last six years and there will be none in the future because of the elimination of the categorical variance procedure by statute. Therefore, there is no fiscal impact.

Fiscal Affect on Local Government

There are about 5,400 tanks (4% of the regulated tank universe) located in vaults and basements. It is estimated that 4,600 tanks are owned by local agencies and of those 184 (4% x 4,600) are located in vaults or basements. Absent the proposed amendments, these tanks would have to be replaced by a new double-walled tank, replaced by above-ground tank or upgraded in accordance with the requirements in section 2662, by 1998. The most probable choice is to install the tank above-ground. The potential cost of installing the new above-ground tanks is estimated at (184 x \$120,000) \$3,680,000, or \$613,333 annually. The proposed amendments would save local government this expense.

Concerning Item 2 above, the assumption is that the local agencies do not own any home heating oil or farm tanks.

Fiscal Affect on State Government

There are about 1,700 tanks owned by state agencies and of those 68 (4% x 1,700) are located in vaults.

The cost, if they were to be replaced with above-ground tanks, is (68 x \$20,000) \$1,360,000, or \$226,667 annually for the next six years. The proposed amendments would save state government this expense.

Concerning Item 2 above the assumption is that the state does not own farm and home heating oil tanks.

VI. Notice Publication/Regulations Submission (Form 400)

**Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations**

1992

NOTICE PUBLICATION/REGULATIONS SUBMISSION *OK* (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBER 2-92-0428-02	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
--	--------------------------	------------------	-----------------------------------

For use by Office of Administrative Law (OAL) only

1992 APR 26 10:03
 RECEIVED FOR FILING OFFICE OF ADMINISTRATIVE LAW
 APR 28 '92 MAY 8 '92

Office of Administrative Law

NOTICE

REGULATIONS

AGENCY

AGENCY FILE NUMBER (if any)

State Water Resources Control Board

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Amendments to Underground Storage Tank Regulations	TITLE(S) 23 and 26	FIRST SECTION AFFECTED 2610	2. REQUESTED PUBLICATION DATE May 8, 1992
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON David Holtry	TELEPHONE NUMBER (916) 739-4436	
OAL USE ONLY <input checked="" type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 92-0428-02	PUBLICATION DATE 5-8-92	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
	REPEAL
TITLE(S)	

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify) _____

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) _____

6. CONTACT PERSON

TELEPHONE NUMBER

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

RECEIVED

DATE

4/20/92

TYPED NAME AND TITLE OF SIGNATORY

Walt Pettit, Executive Director

MAY 1 1992

DIVISION OF CLEAN WATER
19920508

VII. Memoranda

Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations

1992

a. Draft Regulations Revising the
Underground Storage Tank Program: To
David Holtry from Department of
Finance, Dated May 14, 1992

State of California

M E M O R A N D U M

Date: May 14, 1992

To : David Holtry
Underground Storage Tank Program
State Water Resources Control Board

From : Department of Finance

Subject: Draft Regulations Revising the Underground Storage Tank Program

I am returning this regulation package, at this time without our approval. I have kept a copy and I will be contacting you regarding any changes that we believe are necessary. I do appreciate having the opportunity of reviewing the draft regulations, because it does provide us with the time necessary to provide any input or to clarify any concerns.

Once the Board has formally adopted these regulations we would expect notification from you of this action, and any changes that have occurred. At that time, we would be willing to consider approval of these regulations. Please call me at 445-6423 if you have any questions. Thanks!



Stan Hiuga
Budget Analyst

RECEIVED
MAY 18 1992
DIVISION OF CLEAN WATER

b. Fiscal Impact Statement for
Purposed Revisions to UST
Regulations: To James M. Strock Cal
EPA and Elliott Mandell Department
of Finance from Walt Pettit
Executive Director of SWRCB, dated
February 19, 1992

State of California

Memorandum

To: 1. James M. Strock
Secretary for Environmental Protection
California Environmental Protection Agency

2. Elliott Mandell
Department of Finance

Date:

From: Walt Pettit
Executive Director
STATE WATER RESOURCES CONTROL BOARD

Subject: FISCAL IMPACT STATEMENT FOR PROPOSED REVISIONS TO THE UNDERGROUND
STORAGE TANK (UST) REGULATIONS, CHAPTER 16, TITLE 23, CALIFORNIA
CODE OF REGULATIONS

Attached, for your review and approval, is the subject Fiscal Impact Statement and analysis. The fiscal impact analysis has been reviewed and approved by the Division of Administrative Services. Also attached is a copy of the proposed amendments to Chapter 16, Underground Storage Tank regulations. These revisions are necessary because of statutory changes, the change requested by Senator Keene (heating oil tank issue), late comments by the Federal Environmental Protection Agency on the previous rulemaking, and changes for clarification.

Because of the interest of Senator Keene's office, we would appreciate your expeditious review and approval.

If you have any questions regarding this request, please feel free to call me at 657-0941. However, the staff person working on the regulations is David Holtry and he can be reached at 739-4436.

Attachments

FOLDER:DAVE
docname:strock.mandell
DH:jj:1/29/92

Plotky 1/29/92 | *Mandell 1/29/92* | *J. Conrad 1/29/92*

State of California

Memorandum

To:

1. James M. Strock
Secretary for Environmental Protection
California Environmental Protection Agency

Date: FEB 19 1992

2. Elliott Mandell
Department of Finance

From:

Walt Pettit
Walt Pettit
Executive Director
STATE WATER RESOURCES CONTROL BOARD

Subject: FISCAL IMPACT STATEMENT FOR PROPOSED REVISIONS TO THE UNDERGROUND STORAGE TANK (UST) REGULATIONS, CHAPTER 16, TITLE 23, CALIFORNIA CODE OF REGULATIONS

92 APR 28 PM 4:02

Attached, for your review and approval, is the subject Fiscal Impact Statement and analysis. The fiscal impact analysis has been reviewed and approved by the Division of Administrative Services. Also attached is a copy of the proposed amendments to Chapter 16, Underground Storage Tank regulations. These revisions are necessary because of statutory changes, the change requested by Senator Keene (heating oil tank issue), late comments by the Federal Environmental Protection Agency on the previous rulemaking, and changes for clarification.

Because of the interest of Senator Keene's office, we would appreciate your expeditious review and approval.

If you have any questions regarding this request, please feel free to call me at 657-0941. However, the staff person working on the regulations is David Holtry and he can be reached at 739-4436.

Attachments

c. Proposed Revisions to the
Underground Storage Tanks
Regulations: To Walt Pettit
Executive Director of SWRCB, dated
January 28, 1992

State of California

M e m o r a n d u m

To : Walt Pettit
Executive Director

Date: JAN 28 1992


From : Harry M. Schreller, Chief
Division of Clean Water Programs
STATE WATER RESOURCES CONTROL BOARD

Subject: PROPOSED REVISIONS TO THE UNDERGROUND STORAGE TANK REGULATIONS

The attachment contains a limited number of proposed changes to Chapter 16, Title 23, California Code of Regulations. These revisions are necessary because of statutory changes, the change requested by Senator Keene (heating oil tank issue), late comments by the Environmental Protection Agency on the previous rulemaking, and changes for clarification.

We sent an advance copy to the Regional Boards for their review. Only Region 5 submitted comments (see copy attached). We incorporated the first two comments into the proposed changes. Regarding Comment #3, we have discussed it with Region 5 staff. It has been agreed to let our proposed change stand as is.

These proposed changes are being made through the regular rulemaking procedures and not emergency procedures. We plan to handle this rulemaking as follows:

1. After your review and approval of the Fiscal Impact Statement, the proposed regulatory text and the Fiscal Impact Statement will be submitted to Cal-EPA. Your signature is required on the attached Fiscal Impact Statement;
2. After Cal-EPA approval, the proposed regulatory text and the Fiscal Impact Statement will be submitted to the Department of Finance (DOF) and the proposed regulatory text will be submitted to the Office of Administrative Law (OAL) for publication in the Notice Register to start the 45-day comment period;
3. Hold State Water Board hearing at the end of the public comment period;
4. Submit package to State Water Board workshop and Board meeting for adoption; and
5. Submit package, including the DOF approved Fiscal Impact Statement, to OAL.

Attachment

MEMORANDUM

RECEIVED

DEC 30 1991

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD • CENTRAL VALLEY REGION

3443 Rautier Road, Suite A

Sacramento, California 95827-3098

Telephone: (916) 361-5600

ATSS: 8-495-5600

TO: David Holtry
Senior Engineer
SWRCB-UTs

FROM: Gordon Lee Boggs
Underground Tank
Program Coordinator

JC
MCD
DH

DATE: 24 December 1991

SIGNATURE: _____

SUBJECT: REVIEW RESPONSES TO PROPOSED REVISIONS TO THE
UNDERGROUND STORAGE TANK REGULATIONS

We have reviewed the proposed revisions to Chapter 16, the UT regulations, and find that overall they clarify the intent of the regulations. We have a few suggestions for your consideration:

1. Page 4. Section 2621 (c): The timeline for compliance has been deleted. Without a date, the regulation lacks clarity as to when the tank owner/operator must comply with the section. This logic for clarity, stated in your Initial Statement of Reasons for section 2631(d)(6) of these revisions, is applicable here, also.
2. Page 7. Section 2645: The Specific Purpose and Factual Basis for the proposed revision were not included in the Initial Statement of Reasons.
3. Page 10. Section 2672(d)(2): References have been deleted for the need to install monitoring wells when ground water is less than 20 feet below the tank to demonstrate that the UT has not leaked and may be left in place.

We disagree with deleting the need for shallow ground water testing in this subsection, but agree that it would be more appropriate as part of the explanatory statement for (d). Current section language discusses the need for testing water in the excavation and soil samples below the tank. Shallow ground water sampling, placed before the sentence discussing soil sampling, would be consistent with the Section's intent to close tanks permanently. Deleting the reference would eliminate the ability to detect a problem in the shallow ground water resource.

If you have any questions, please call me at 361-5740.

d. Fiscal Impact Statement for
Proposed Title 23, Division 3,
Chapter 16 California Code of
Regulations: to James B. Stafford
Division of Administrative Services,
dated February 6, 1992

**Index to Rulemaking File nderground Storage Tank Regulations Title 23, Waters
Division 3, Water Resources Control Board Chapter 16, Underground Storage Tank
Regulations**

1992

State of California

M e m o r a n d u m

To : James B. Stafford
Division of Administrative Services

Date: FEB 6 1992


From : Harry M. Schueller, Chief
Division of Clean Water Programs
STATE WATER RESOURCES CONTROL BOARD

Subject: FISCAL IMPACT STATEMENT FOR PROPOSED TITLE 23, DIVISION 3, CHAPTER 16
CALIFORNIA CODE OF REGULATIONS

Attached for your review is the Fiscal Impact Statement for the proposed underground storage tank regulations.

If there are any problems or comments please let us know as soon as possible, otherwise, please forward to Walt Pettit for his review.

If you have any questions, please contact David Holtry at (916) 739-4436.

Attachment

EXECUTIVE OFFICE
SIGNATURE DOCUMENT ROUTE SLIP

From: CWP/HMS
Division/Office (initial/date)

Must be mailed by: _____
Because: _____

Executive Log No.: _____
Executive Control No.: _____
Due Date to Executive: _____
Due Date to Agency: _____

Division Log No.: _____
Division Control No.: _____

Attached: MEMORANDUM To be signed by: WALT PETTIT

Addressed to: JAMES M. STROCK

Regarding: FISCAL IMPACT STATEMENT AND PROPOSED REVISIONS TO THE UNDERGROUND
STORAGE TANK REGULATIONS, CHAPTER 16, TITLE 23, CALIFORNIA CODE OF REGS

Coordinated with
Other Divisions: DAS
(initial/date) (initial/date) (initial/date) (initial/date)

COMMENTS AND INSTRUCTIONS

PLEASE RETURN THE SIGNED MEMO TO STROCK
TO JENNIFFER JORDEN AT CWP. THE PACKET
WILL BE SENT OUT FROM CLEAN WATER PROGRAMS.

• FOR EXECUTIVE OFFICE USE ONLY *
* *
* Requires Board Member Concurrence *
* Yes No *

to Exec 1/27/92

Distribution: white--filed in Executive after signature; green--returned to Division
w/file copy after signature; yellow--filed w/Exec Chron copy; pink--filed w/Admin Assist
copy; goldenrod--held by Division/Office as pending.

EXECUTIVE OFFICE
SIGNATURE DOCUMENT ROUTE SLIP

From: CWP/HMS
Division/Office (initial/date) HH 1/29

Must be mailed by: _____
Because: _____

Executive Log No.: _____
Executive Control No.: _____
Due Date to Executive: _____
Due Date to Agency: _____

Division Log No.: _____
Division Control No.: _____

Attached: MEMORANDUM To be signed by: WALT PETTIT

Addressed to: 1. JAMES STROCK; 2. ELLIOTT MANDELL

Regarding: FISCAL IMPACT STATEMENT AND PROPOSED REVISIONS TO THE UNDERGROUND
STORAGE TANK REGULATIONS, CHAPTER 16, TITLE 23, CALIFORNIA CODE OF REGS

Coordinated with
Other Divisions: DAS (initial/date) (initial/date) (initial/date) (initial/date)

COMMENTS AND INSTRUCTIONS

* FOR EXECUTIVE OFFICE USE ONLY *
* *
* Requires Board Member Concurrence *
* Yes No *

Distribution: white--filed in Executive after signature; green--returned to Division w/file copy after signature; yellow--filed w/Exec Chron copy; pink--filed w/Admin Assist copy; goldenrod--held by Division/Office as pending.

VIII. Proposed amendments

PROPOSED AMENDMENTS. (NEW TEXT IS UNDERLINED; DELETED TEXT IS CROSSED OUT.)

CALIFORNIA CODE OF REGULATIONS
TITLE 23 WATERS
DIVISION 3 WATER RESOURCES CONTROL BOARD
CHAPTER 16 UNDERGROUND STORAGE TANK REGULATIONS

2610. Definitions/Applicability of Definitions

(b) Except as otherwise specifically provided herein, the following terms are defined in section 25281 of Chapter 6.7 of Division 20 of the Health and Safety Code:

Automatic Line Leak Detector

Board

Department

Facility

Federal Act

~~Hazardous Substance~~

Local Agency

~~Operator~~

Owner

~~Person~~

Pipe

Primary Containment

Product-Tight

Release

Secondary Containment

Single-Walled

Special Inspector

Storage/Store

SWEEPS

Tank

Tank Integrity Test
Tank Tester
Unauthorized Release
Underground Storage Tank
Underground Tank System/Tank System

Authority: Health and Safety Code 25299.3, 25299.7
Reference: Health and Safety Code 25281, 25282, 25291

2611. Additional Definitions

"Hazardous substance" means a substance which meets the criteria of either subsection (1) or subsection (2) of section 25281(f) of the Health and Safety Code.

"Manual inventory reconciliation" means a procedure based on calculations using a series of daily inventory records taken manually by the tank owner/operator or recorded by a mechanical device to indicate whether the tank or piping are leaking.

"New underground storage tank" means any underground storage tank subject to this chapter which is installed after the effective date of this chapter as amended August 9, 1991, or which complies with the requirements of Article 3 of this chapter as amended August 9, 1991; or which was installed after January 1, 1984, and before the effective date of this chapter as amended August 9, 1991, pursuant to a permit issued by the local agency implementing the provisions of Chapter 617 of Division 20 of the Health and Safety Code relating to new underground storage tanks.

"Operator" means any person in control of, or having responsibility for, the daily operation of an underground storage tank system.

"Person" means an individual, trust, firm, consortium, joint venture, or other commercial entity, including a government corporation, partnership, or association. The term includes any city, county, district, state, political subdivision, department or agency thereof, any interstate agency, and the United States, to the extent required by federal law.

"Statistical inventory reconciliation" means a procedure based on the statistical analysis of a series of daily inventory records taken manually by the tank owner/operator or recorded by a mechanical device to determine whether the tank or piping are leaking.

"Wastewater treatment tank" means an underground storage tank designed to treat an influent wastewater through physical, chemical, or biological methods and which is located inside a public or private wastewater treatment facility. The term includes untreated wastewater holding tanks, oil water separators, clarifiers, sludge holding tanks, filtration tanks, and clarified water tanks that do not continuously contain hazardous substances.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code 25281, 25282, 25283, 25299.5(a)

Code of Federal Regulations, Title 40, Part 280.10 (40 CFR 280.10)

2621. Exemptions

- (a) The term "underground storage tank" does not include any of the following, unless they are included within the definition of an underground storage tank in the Federal Act:

(9) A pipeline located in a refinery or in an oil field except a pipeline connected to an underground storage tank subject to the requirements of this chapter.

(15) A tank located in a vault or basement meeting the requirements of section 25283.5 of the Health and Safety Code.

(c) The owner of a farm or heating oil tank or any other tank which is excluded from regulation as an underground storage tank *by virtue of its use* shall within 120 days after any change in or discontinuance of the use which provided the exclusion/ which results in that tank becoming a regulated tank,
(1) Apply for and promptly obtain a valid operating permit/ or
(2) *Close the tank in accordance with Article 7 of these regulations/*
Resumption of a use which justifies an exclusion *from regulation within 120 days after change or discontinuance of the use which provided the exclusion* will reactivate the exclusion.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code 25281, 25299.1

40 CFR 280.10, 280.12

2630. General Applicability of Article

(b) Sections 2631 and 2632 of this article specify construction and monitoring standards for all new underground storage tanks. New underground storage tanks that only store motor vehicle fuels may be constructed and monitored pursuant to the standards specified in sections 2633 and 2634 of this article in lieu of those specified in sections 2631 and 2632 of this article. However, if the construction standards in section 2633 of this article are used, then

the monitoring standards of section 2634 of this article shall also be used. Monitoring equipment used to satisfy the requirements of sections 2632 and 2634 shall be installed, calibrated, operated and monitored as set forth in section 2641(i) of Article 4 of this chapter.

2631. Construction Standards for New Underground Storage Tanks

- (a) All new underground storage tanks including associated piping used for the storage of hazardous substances shall be required to have primary and secondary levels of containment. Secondary containment can be manufactured as an integral part of the primary containment or it can be constructed as a separate containment system. An underground storage tank and associated piping containing a non-petroleum hazardous substance shall have a secondary containment system that completely surrounds the primary containment.
- (b) All primary containment including any integral secondary containment system, shall be designed and constructed according to an industry code or engineering standard approved by an independent testing organization for the applicable use and shall be product tight. All other components such as special accessories, fittings, coatings or linings, monitoring systems and level controls used to form the underground storage tank system shall bear an approval from an independent testing organization. This requirement shall become effective on July 1, 1991 for underground storage tanks, January 1, 1992 for piping, and July 1, 1992 for all other components. The exterior surface of underground storage tanks shall bear a marking, code stamp, or label showing the following minimum information:

- (d) A secondary containment system such as vaults, ridged trenches and pipes shall be designed and constructed according to an engineering specification approved by a state licensed engineer or according to a nationally recognized industry code or engineering standard. The engineering specification shall include the construction procedures. Materials used to construct the secondary containment system shall have sufficient thickness, density, and corrosion

resistance to prevent structural weakening or damage to the secondary containment system as a result of contact with any released hazardous substance. The following requirements apply to all secondary containment systems:

- (d)(1)(B) In the case of multiple primary containers within an open single secondary containment system, the secondary containment system shall be large enough to contain 150 percent of the volume of the largest primary container within it, or 10 percent of the aggregate internal volume of all primary containers within the secondary containment system, whichever is greater. When all primary containers are completely enclosed within the secondary containment system, the restrictions of this subsection do not apply.

- (6) Secondary containment systems utilizing membrane liners shall be certified by an independent testing organization by July 1, 1992. A membrane liner shall not contain any primary nutrients or food-like substances attractive to rodents and must meet the requirements in Table 3.1 after 30-day immersion in the stored hazardous substance.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code 25281, 25291
40 CFR 280.20

Section 2635. Installation and Testing Requirements for New Underground Storage Tanks and Piping

- (c)(1)(C) It must ~~have a spring-loaded drain valve which allows drainage of the collected spill into the primary container~~ provide a means to empty the spill container immediately after use.

(D) Prevent venting of the underground storage tank through spill container.

- (e)(1) The installer has been adequately trained ~~and certified~~ as evidenced by a certificate of training issued by the tank and piping manufacturers;

2642. Visual Monitoring

- (d) Visual monitoring of the exposed portion of a partially concealed underground storage tank shall not relieve an owner from implementing monitoring for the concealed portion of the tank using a non-visual monitoring ~~alternative~~ program as specified in section 2641 of this article.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code 25292, 25293

2643. Non-Visual Monitoring/Quantitative Release Detection Methods

- (i) If an automatic tank gauge is used as ~~a~~ the method of release detection set forth in section 2643(c)(1), the automatic tank gauge shall generate a hard copy of all data reported, including leak rate; time and date; tank identification; fuel depth; water depth; temperature; liquid volume; the time automatic tank gauging is performed; and hourly temperature corrected volume data during the automatic tank test.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code 25292

40 CFR 280.40 - 280.45

2645. Manual Tank Gauging and Testing for Small Tanks

2646. Inventory Reconciliation

- (a) Statistical ~~Inventory~~ reconciliation shall only be used as part of the non-visual monitoring, set forth in section 2643(c)(1) for existing underground storage tanks which contain motor vehicle fuels. Statistical inventory reconciliation shall be verified once every 24 months by performing a tank integrity test.
- (b) Manual inventory reconciliation shall only be used as part of the non-visual monitoring, set forth in section 2643(c)(2)(B) for existing underground storage tanks which contain motor vehicle fuels. After January 1, 1993, manual inventory reconciliation/ and any other leak detection method that utilizes manual stick readings/ shall not be used as part of non-visual monitoring for existing underground storage tanks containing a hazardous substance including motor vehicle fuel/ where the existing ground water level or the highest anticipated ground water level is less than 20 feet below the bottom of the tank. These ground water levels shall be determined according to the requirements of section 2649(c) of this article. Manual inventory reconciliation shall not be used after December 22, 1998.
- (c) ~~Inventory reconciliation that utilizes manual stick readings shall not be used after December 22, 1998/~~ A tank integrity test is required within 15 calendar days when two successive monthly statistical inventory reports do not meet the standard of section 2643(c)(1), where the existing ground water level or the highest anticipated ground water level is less than 20 feet below the bottom of the tank.

- (i) ...Monthly variations exceeding a variation of 1.0 percent of the monthly tank ~~delivery~~ flow through plus 130 gallons must be investigated in accordance with this section.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code 25291, 25292

40 CFR 280.43

2650. Reporting and Recording Applicability

- (e) The owner or operator of an underground storage tank shall report to the ~~Board~~ local agency any unauthorized release described in section 25295 of the Health and Safety Code, and any of the following conditions according to section 2652 of this article...

2652. Reporting, Investigation, and Initial Response Requirements for Unauthorized Releases

- (e) Free product removal reports prepared in compliance with section 2655 of this article shall be submitted to the local agency or regional board, whichever is overseeing the cleanup, within 45 calendar days of release confirmation.
- (f) The owner or operator shall conduct any necessary initial abatement and site characterization actions according to the requirements of sections 2653 and 2654 of this article and any additional corrective action according to the applicable requirements of Article 11 of this chapter.
- (g) If the test results from either an investigation conducted under subsection (f) of this section, or any other procedures approved by the local agency, or regional board, whichever is overseeing the cleanup, do not confirm that a release from the underground storage tank has occurred, no further investigation or corrective action is required.

Authority: Health and Safety Code 25299.3, 25299.7, 25299.77

Reference: Health and Safety Code 25299.37

40 CFR 280.60 through 280.67

2655. Free Product Removal

- (a) At sites where investigations under section 2653 of this article indicate the presence of free product, the owner or operator shall comply with the requirements of this section. The owner or operator shall remove free product to the maximum extent practicable, in accordance with the requirements of section 2722(b), as determined by the local agency, while continuing to take any actions required under section 2652 through 2654 of this article.

2660. Applicability

- (g) ...If there has been no unauthorized release, the owner may line the tank in accordance with section ~~2662~~ 2661 of this article.

2664. Underground ~~Pressurized~~ Piping Upgrade Requirements

- (a) All underground ~~pressurized~~ piping containing hazardous substances, other than those which contain motor vehicle fuel, shall be retrofitted with secondary containment meeting the requirements specified in section 2635(b) by December 22, 1998.
- (b) All underground ~~pressurized~~ piping containing motor vehicle fuel installed on or before January 1, 1984 shall be retrofitted with secondary containment unless the owner or operator demonstrates to the local agency that the piping is constructed of fiberglass reinforced plastic, cathodically protected steel, or other materials compatible with stored products and resistant to corrosion...

2672. Permanent Closure Requirements

- (d)(2) If the underground storage tank or any portion thereof is not removed, at least one boring shall be taken as close as possible to the midpoint beneath the tank utilizing a slant boring (mechanical or manual), or other appropriate method such as vertical borings drilled on each long dimensional side of the tank. *If the depth to ground water is less than 20 feet, then a ground water monitoring well shall be installed adjacent to the tank and/or piping in the verified downgradient direction.*
- (e) The detection of any reportable unauthorized release shall require compliance with the *reporting* applicable requirements of Article 5 and Article 11 of this chapter.

Authority: Health and Safety Code 25299.3, 25299.7, 25299.77

Reference: Health and Safety Code 25298, 25299.37

40 CFR 280.60 through 280.67, 280.71

2680. General Applicability of Article

- (a) This article sets up procedures for *categorical and* site-specific variances from the requirements for the construction and monitoring of new and existing underground storage tanks as described in Chapter 6.7 of Division 20 of the Health and Safety Code and Articles 3 and 4 of this chapter. A site-specific variance, if approved, would apply only to the specific site(s) approved for a variance. *A categorical variance, if approved, would apply to the region, area, or circumstances approved for a variance. A categorical variance application shall include more than one site or shall be non-site specific.* These procedures are in addition to those established by the appropriate sections of Chapter 6.7 of Division 20 of the Health and Safety Code.
- (b) *Section 2681 of this article specifies the procedures that must be followed by the applicant and the Board for categorical variance requests.*

(c)

- (b) Section 2682 2681 of this article specifies the procedures that must be followed by the applicant, local agency, and the regional board for site-specific variance requests.

Authority: Health and Safety Code 25299.3

Reference: Health and Safety Code 25299.4

2681/ Categorical Variances

- (a) A categorical variance allows an alternative method of construction or installation which would be applicable at sites in water and local agency's jurisdiction.//Application for a categorical variance shall be made to the Board on a form provided by the Board.
- (b) Application for a categorical variance shall include, but not be limited to:
- (1) A description of the provision from which the variance is requested;
 - (2) A description of the proposed alternative program, method, device, or process;
 - (3) A description of the region, area, or circumstances under which the variance would apply;
 - (4) Clear and convincing evidence that the proposed alternative will adequately protect the soil and the beneficial uses of waters of the state from an unauthorized release;
 - (5) A list including names and addresses of all persons known to the applicant who may be affected by or may be interested in the variance request;
 - (6) Written comments or recommendations from impacted local agencies;
 - (7) An initial fee of \$11,000/

- (c) The applicant will be required to pay a fee based on the actual costs of considering the application//The Board will bill the applicant for additional costs or refund any unused portion of the initial fee/
- (d) The Board shall review all applications submitted and notify the applicant in writing within 30 days of receipt of the application as to whether or not the application is complete/
- (e) The Board shall remand the application to the appropriate regional board if it determines that the application falls within section 2882 of this article/
- (f) The Board shall hold at least 2 public hearings as set forth in section 28299/4 of the Health and Safety Code/
- (g) If the Board grants the variance/ it will prescribe the conditions the applicant must maintain and will describe the specific alternative for which the variance is being granted/
- (h) All permit applicants who intend to utilize an approved categorical variance shall attach a copy of the approved variance to the permit application submitted to the local agency//The local agency shall review the application and categorical variance to determine if the variance applies to the specific site//If the local agency concurs in the applicability of the variance/ the local agency shall issue a permit to the applicant which includes the conditions prescribed by the Board provided all other permit conditions are met/
- (i) The Board shall modify or revoke a categorical variance upon a finding that the proposed alternative does not adequately protect the soil and the beneficial uses of the waters of the state from an unauthorized release//The Board shall not modify or revoke a categorical variance until it has followed procedures comparable to those prescribed in this section and Chapters 13 and 6 of Division 3 of Title 23 of the California Code of Regulations//The Board shall notify all affected local agencies of any modification or revocation/ Local agencies shall appropriately modify or revoke all permits which were based on the categorical variance/

Authority://Health and Safety Code 25299.13, 25299.17

Reference://Health and Safety Code 25299.14

2682

2681. Site-Specific Variances

APPENDIX VI

CERTIFICATE OF TANK AND PIPE INSTALLATIONS

The owner or operator shall use the form below to certify that the UST and piping were installed properly.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
CERTIFICATION OF COMPLIANCE
FOR UNDERGROUND STORAGE TANK INSTALLATION
FORM C



COMPLETE A SEPARATE FORM FOR EACH TANK SYSTEM

I. SITE LOCATION

STREET _____

CITY _____ COUNTY _____

II. INSTALLATION (mark all that apply):

- ☐ The installer has been certified by the tank and piping manufacturers.
- ☐ The installation has been inspected and certified by a registered professional engineer.
- ☐ The installation has been inspected and approved by the implementing agency.
- ☐ All work listed on the manufacturer's installation checklist has been completed.
- ☐ The installation Contractor has been certified or licensed by the Contractors State License Board.
- ☐ Another method was used as allowed by the implementing agency. (Please specify.)

III. OATH I certify that the information provided is true to the best of my belief and knowledge.

Tank Owner/Agent _____ Date _____

Print Name _____ Phone () _____

Address _____

LOCAL AGENCY USE ONLY

STATE
TANK I D #

COUNTY #
[] []

JURISDICTION #
[] [] [] []

FACILITY #
[] [] [] [] [] []

TANK #
[] [] [] [] [] []